

## PLAINTIFF'S COMPLAINT

1           7.       stored, and/or displayed Plaintiff's Photograph on the Website, YT Account, and  
2 FB Account and engaged in this misconduct knowingly and in violation of the United States  
3 copyright laws.

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5                                   **PARTIES**

6           8.       Plaintiff Theodore Parisienne is an individual who is a citizen of the State of New  
7 York and who resides in Queens County, New York.

8           9.       Upon information and belief, Defendant Kollege Kidd LLC, is an Ohio limited  
9 liability company with a principal place of business in Toledo, Ohio and is liable and responsible  
10 to Plaintiff based on the facts herein alleged.

11                                   **JURISDICTION AND VENUE**

12           10.      This Court has subject matter jurisdiction over the federal copyright infringement  
13 claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

14           11.      This Court has personal jurisdiction over Kollege Kidd LLC because it maintains  
15 its principal place of business in Ohio.

16           12.      Venue is proper under 28 U.S.C. §1391(a)(2) because Kollege Kidd LLC does  
17 business in this Judicial District and/or because a substantial part of the events or omissions giving  
18 rise to the claim occurred in this Judicial District.

19                                   **FACTS COMMON TO ALL CLAIMS**

20           13.      Plaintiff is a professional photographer by trade who is the legal and rightful owners  
21 of photographs which Plaintiff licenses to online and print publications.

22           14.      Plaintiff has invested significant time and money in building Plaintiff's photograph  
23 portfolio.

24           15.      Plaintiff has obtained active and valid copyright registrations from the United States  
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1 Copyright Office (the “USCO”) which cover many of Plaintiff’s photographs while many others  
2 are the subject of pending copyright applications.

3 16. Plaintiff’s photographs are original, creative works in which Plaintiff owns  
4 protectable copyright interests.

5 17. Upon information and belief, Kollege Kidd LLC is the owner of the Website and is  
6 responsible for their content.

7 18. Upon information and belief, Kollege Kidd LLC is the operator of the Website and  
8 the Accounts and is responsible for their content.

9 19. The Website is a popular and lucrative commercial enterprise.

10 20. The Website is monetized in that it contains paid advertisements and, upon  
11 information and belief, Defendant profits from these activities.

12 21. The Website is monetized in that it sells merchandise to the public and, upon  
13 information and belief, Defendant profits from these activities.

14 22. YT Account and FB Account (hereinafter collectively “Accounts”) are associated  
15 with Defendant.

16 23. Defendant has exclusive access to post content on the respective Accounts.

17 24. Defendant uses the Accounts to promote its business and brand whereby Defendant  
18 financially benefits.

19 25. In January 2017, Plaintiff first published a photograph of Daryl Campbell being  
20 escorted by officers of the New York City Police Department from Manhattan’s 13<sup>th</sup> precinct to a  
21 court proceeding (the “Photograph”). A copy of the Photograph is attached hereto as Exhibit 1.

22 26. Plaintiff applied to the USCO to register the Photograph on or about March 27,  
23 2017 under Application No. 1-4487737785.

1           27.     The Photograph was registered by the USCO on March 27, 2017 under Registration  
2 No. VA 2-036-436.

3           28.     On April 7, 2022, Plaintiff first observed the Photograph on the Website in a story  
4 dated January 16, 2017. A copy of the screengrab of the Website including the Photograph is  
5 attached hereto collectively as Exhibit 2.  
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7           29.     The Photograph was displayed on the Website at URL:  
8 <https://kollegekidd.com/news/taxstone-charged-in-troy-ave-shooting/> and at URL:  
9 <https://kollegekidd.com/news/tag/troy-ave/> (*Exhibit 2-Infringement #1-2*).

10          30.     The Photograph was stored on the Website at URL: [https://kollegekidd.com/wp-](https://kollegekidd.com/wp-content/uploads/2017/01/taxstonearrest-300x155.jpg)  
11 [content/uploads/2017/01/taxstonearrest-300x155.jpg](https://kollegekidd.com/wp-content/uploads/2017/01/taxstonearrest-300x155.jpg).  
12

13          31.     Furthermore, Plaintiff observed the Photograph on YT Account and FB Account.

14          32.     A copy of the Photograph was displayed on YT Account at [www.youtube.com](http://www.youtube.com) at  
15 URL: <https://www.youtube.com/watch?v=vcAsNUoMjJM&t=66s> (*Exhibit 2-Infringement # 3*).

16          33.     Additionally, the Photograph was displayed on the FB Account at the following  
17 URLs:

18               a) <https://www.facebook.com/kollegekidd/posts/1945383722356476> (*Exhibit 2-*  
19 *Infringement # 4*);

20               b) <https://www.facebook.com/kollegekidd/posts/1946248778936637> (*Exhibit 2-*  
21 *Infringement # 5*);

22               c) <https://www.facebook.com/kollegekidd/posts/1967361540158694> (*Exhibit 2-*  
23 *Infringement # 6*);

24               d) <https://www.facebook.com/kollegekidd/posts/2040243709537143> (*Exhibit 2-*  
25 *Infringement # 7*);  
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- 1 e) <https://www.facebook.com/kollegekidd/posts/2065268947034619> (*Exhibit 2-*  
2 *Infringement # 8*);  
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4 f) [https://www.facebook.com/kollegekidd/photos/a.1824711101090406/299747273](https://www.facebook.com/kollegekidd/photos/a.1824711101090406/2997472733814231)  
5 [3814231](https://www.facebook.com/kollegekidd/photos/a.1824711101090406/2997472733814231) (*Exhibit 2-Infringement # 9*);  
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7 g) [https://www.facebook.com/kollegekidd/posts/pfbid0gqKWTnEHKt1kY1yepha4](https://www.facebook.com/kollegekidd/posts/pfbid0gqKWTnEHKt1kY1yepha4Wi3Di8AwzySXPhipsNo8XTFTd4Lr9C4WwJ8dBiGZeqUSl)  
8 [Wi3Di8AwzySXPhipsNo8XTFTd4Lr9C4WwJ8dBiGZeqUSl](https://www.facebook.com/kollegekidd/posts/pfbid0gqKWTnEHKt1kY1yepha4Wi3Di8AwzySXPhipsNo8XTFTd4Lr9C4WwJ8dBiGZeqUSl) (*Exhibit 2-*  
9 *Infringement # 10*).

10 34. Without permission or authorization from Plaintiff, Defendant volitionally selected,  
11 copied, stored and/or displayed Plaintiff's copyright protected Photograph as is set forth in Exhibit  
12 "1" on the Website as well the Accounts.

13 35. Upon information and belief, the Photograph was copied, stored and displayed  
14 without license or permission, thereby infringing on Plaintiff's copyrights (hereinafter collectively  
15 as the "*Infringements*" and singularly as the "*Infringement*").  
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17 36. Each Infringement includes a URL ("*Uniform Resource Locator*") for a fixed  
18 tangible medium of expression that was sufficiently permanent or stable to permit it to be  
19 communicated for a period of more than a transitory duration and therefore constitute a specific  
20 infringement. *17 U.S.C. §106(5); Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146, 1160 (9th  
21 Cir. 2007).  
22

23 37. Each Infringement includes copy of the vast majority of Plaintiff's original image  
24 that was directly copied and stored by Defendant on the Website and the Accounts.

25 38. Upon information and belief, Defendant takes an active and pervasive role in the  
26 content posted on its Website and the Accounts, including, but not limited to copying, posting,  
27 selecting, commenting on and/or displaying images including but not limited to Plaintiff's  
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1 Photograph.

2 39. Upon information and belief, Defendant directly contributes to the content posted  
3 on the Website by, inter alia, directly employing reporters, authors and editors as its agents, who  
4 post content on the Website under the alias “KollegeKidd Staff” (“*Employees*”).

5 40. Upon information and belief, at all material times the Employees were acting within  
6 the course and scope of their employment when they posted the Infringements.

7 41. Upon information and belief, the Photograph was willfully and volitionally posted  
8 to the Website and the Accounts by Defendant.

9 42. Upon information and belief, Defendant engaged in the Infringements knowingly  
10 and in violation of applicable United States Copyright Laws.

11 43. Upon information and belief, Defendant has the legal right and ability to control  
12 and limit the infringing activities on its Website as well as the Accounts and exercised and/or had  
13 the right and ability to exercise such right.

14 44. Upon information and belief, Defendant monitors the content on its Website and  
15 the Accounts.

16 45. Upon information and belief, Defendant has received a financial benefit directly  
17 attributable to the Infringements.

18 46. Upon information and belief, the Infringement increased traffic to the Website and  
19 the Accounts and, in turn, caused Defendant to realize an increase in its advertising revenues and/or  
20 merchandise sales.

21 47. Upon information and belief, a large number of people have viewed the unlawful  
22 copies of the Photograph on the Website and the Accounts.

23 48. Upon information and belief, Defendant at all times had the ability to stop the  
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1 reproduction and display of Plaintiff's copyrighted material.

2 49. Defendant's use of the Photograph, if widespread, would harm Plaintiff's potential  
3 market for the Photograph.

4 50. As a result of Defendant's misconduct, Plaintiff has been substantially harmed.

5  
6 **FIRST COUNT**  
***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

7 51. Plaintiff repeats and incorporates by reference the allegations contained in the  
8 preceding paragraphs, as though set forth in full herein.

9 52. The Photograph is an original, creative work in which Plaintiff owns valid  
10 copyright properly registered with the United States Copyright Office.

11 53. Plaintiff has not licensed Defendant the right to use the Photograph in any manner,  
12 nor has Plaintiff assigned any of its exclusive rights in the copyrights to Defendant.

13 54. Without permission or authorization from Plaintiff and in willful violation of  
14 Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and illegally copied, stored,  
15 reproduced, distributed, adapted, and/or publicly displayed works copyrighted by Plaintiff thereby  
16 violating one of Plaintiff's exclusive rights in its copyrights.

17 55. Defendant's reproduction of the Photograph and display of the Photograph  
18 constitutes willful copyright infringement. *Feist Publications, Inc. v. Rural Telephone Service Co.,*  
19 *Inc.*, 499 U.S. 340, 361 (1991).

20 56. Plaintiff is informed and believes and thereon alleges that the Defendant willfully  
21 infringed upon Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S. Code, in that  
22 they used, published, communicated, posted, publicized, and otherwise held out to the public for  
23 commercial benefit, the original and unique Photograph of the Plaintiff without Plaintiff's consent  
24 or authority, by using it in the infringements on the Website and the Accounts.  
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1           57. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled  
2 to an award of actual damages and disgorgement of all of Defendant's profits attributable to the  
3 infringements as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at  
4 Plaintiff's election, an award for statutory damages against Defendant for each infringement  
5 pursuant to 17 U.S.C. § 504(c).  
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7           58. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in  
8 its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs  
9 pursuant to 17 U.S.C. § 505 from Defendant.

10           59. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled  
11 to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.  
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13                           **JURY DEMAND**

14           60. Plaintiff hereby demands a trial of this action by jury.

15                           **PRAYER FOR RELIEF**

16           **WHEREFORE** Plaintiff respectfully requests judgment as follows:

17           That the Court enters a judgment finding that Defendant has infringed upon Plaintiff's  
18 rights to the Photograph in violation of 17 U.S.C. §501 et seq. and award damages and monetary  
19 relief as follows:

- 20                   a. finding that Defendant infringed upon Plaintiff's copyright interest in the  
21                   Photograph by copying and displaying without a license or consent;  
22                   b. for an award of actual damages and disgorgement of all of Defendant's  
23                   profits attributable to the infringements as provided by 17 U.S.C. § 504 in  
24                   an amount to be proven or, in the alternative, at Plaintiff's election, an award  
25                   for statutory damages against Defendant for each infringement pursuant to  
26                   for statutory damages against Defendant for each infringement pursuant to  
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1 17 U.S.C. § 504(c), whichever is larger;

2 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any  
3 infringing use of any of Plaintiff's works;

4 d. for costs of litigation and reasonable attorney's fees against Defendant  
5 pursuant to 17 U.S.C. § 505;

6 e. for pre judgment interest as permitted by law; and

7 f. for any other relief the Court deems just and proper.  
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9  
10 DATED: January 25, 2022

11 **SANDERS LAW GROUP**

12 By: /s/ Craig B. Sanders  
13 Craig B. Sanders, Esq.  
14 333 Earle Ovington Blvd, Suite 402  
15 Uniondale, NY 11553  
16 Tel: (516) 203-7600  
Email: csanders@sanderslaw.group  
File No.: 125875

17 *Attorneys for Plaintiff*  
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